trying to strike laws. Now, they have been criticized.

For instance, in a recent decision, one of the dissenting Justices who sought to uphold an act of Congress said, what basis is there in any of those sources, talking about the majority's history, for concluding that it is the members of this Court, rather than the elected representatives of the people, who should determine whether the Constitution contains the unwritten rule that the Court announces today.

In other words, the dissenter says to this majority, what gives you the right in this ambiguous area, because nothing is explicit, to overrule what the elected officials have said? That same dissenting Justice said in a footnote, referring to what he thought was shoddy history and poor logic on the part of the majority, he said, ''If this sort of unexplained congressional action provides sufficient historical evidence to support the fashioning of judge-made rules of constitutional law, the doctrine of judicial restraint has a brief, though probably colorful, life expectancy.'' Here again, the dissenting Justice says to those in the majority, you are making a mockery of judicial restraint.

Well, in this particular case I agreed with the dissenting Justice on the substance, I am talking about Justice Stevens, he wrote the dissent, and he was dissenting in the Brady bill case. Justice Stevens wanted to uphold the Brady bill. He wanted to uphold the mandate that we ask local officials to cooperate in a very small way, but he was overruled. And while I disagree with the majority here, I want to pay tribute to Justices Scalia and Thomas for not being in any way deterred by criticism of judicial activism. Indeed, in the past term of the Supreme Court, Justices Scalia and Thomas voted to invalidate more acts of Congress than all but one of the Justices. Justice Kennedy I think tied them.

For instance, Justices Scalia and Thomas said, when this Congress passed the Communications Decency Act in an effort to keep indecent material off the Internet, which did seem to me to violate the Constitution. I voted against it. I was one of a small number of Members who voted against it. Over 400 Members of this House voted for that bill. But were Justices Thomas and Scalia deterred from declaring it unconstitutional? No, they were not. Four hundred Members may have said we want to keep indecent material off the Internet. I think they misread the Constitution, and Justices Scalia and Thomas joined in the opinion that invalidated that.

When an overwhelming majority of this Congress passed the Religious Freedom Restoration Act to protect people's religious practices from laws that might unfairly impinge on them, there I was in the majority. I thought the Constitution allowed us to do it. Justices Thomas and Scalia disagreed.

Now, I disagree with their disagreement. I think they were wrong on the substance, but I do have to pay tribute to the fact that they said an overwhelming majority of people in Congress think it is protecting people's religions, but when two of the Supreme Court Justices disagree and we will strike that law down and strike it down they did. I disagreed with them also, as I said, on the Brady bill. That was passed by a narrower majority. Very ambiguous language. They were in the majority to strike it down.

When the Securities and Exchange Commission, a Federal agency due certain amount of deference from the courts in statutory interpretation, tried to uphold the current practice regarding insider trading, a man who had benefited from insider trading, illegitimately in my opinion, brought a lawsuit and the Court 6 to 3 upheld the Securities and Exchange Commission. But among the three who said no, we the Justices will overrule this Federal agency, we will not show them that deference, were Justices Scalia and Thomas.

When Congress passed the must-carry rule as part of the Telecommunications Act, when we mandated that TV stations and cable companies carry broadcast stations, Congress upheld that. So the Court upheld that by 5 to 4. In the minority were Scalia and Thomas.

So I simply want to call note to the fact that these two justices have repudiated critics of Judicial activism and have been as active in this past term as any Justices in our past history.

Mr. Speaker, I include for the RECORD examples of judicial activism on the part of Justices Scalia and Thomas.

EXAMPLES OF JUDICIAL ACTIVISM ON THE PART OF JUSTICES SCALIA AND THOMAS

1. They both voted to declare unconstitutional part of the Brady bill regulating the sale of handguns.

2. They both voted to declare unconstitutional the Religious Freedom Restoration Act, which sought to protect the rights of religious people where laws were passed that impinged on their religious practice.

3. They both joined in the decision holding the Communications Decency Act unconstitutional. The CDA sought to ban indecent material from being sent on the Internet.

4. They both voted to declare unconstitutional the federal law requiring cable TV systems to carry the signals broadcast by local over the air stations. The law was upheld, however, because they were part of a four member minority.

5. They were again in the minority in seeking to overrule the decision of the Securities and Exchange Commission as to who is covered by the statute prohibiting insider trading. The SEC has taken a broad view of the coverage of this statute, and Justices Thomas and Scalia were in a 6 to 3 minority in seeking to overrule the SEC.

6. Justices Scalia and Thomas continue to join three others to form a majority holding that the Voting Rights Act has severe constitutional defects and have continued to strike down voting districts created under the Voting Rights Act—at the time often at the urging of the Bush led Justice Department as well as groups representing African Americans.

PROBLEMS WITH THE QUADRENNIAL DEFENSE REVIEW

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Colorado [Mr. HEFLEY] is recognized during morning hour debates for 5 minutes.

Mr. HEFLEY. Mr. Speaker, I rise this morning to continue the ongoing discussions in the House concerning the Quadrennial Defense Review. The QDR has emerged as a blueprint for the administration's defense program. The assumptions of the QDR, particularly as they affect budgets, are as critical as the policy choices contained in the review.

One of the most often discussed recommendations contained in the QDR is the recommendation for two more rounds of base closures, but the QDR itself says very little about base infrastructure beyond that recommendation. The Congress still does not have a clear understanding how the Department came to the conclusion that it did.

That is critically important, because DOD has made assumptions about future Defense budgets based on that recommendation. But those budget assumptions appear to be based on elementary projects of DOD's estimates of costs and savings of the current base closure effort, and those projections may turn out to be wrong.

To date, the Congress has been skeptical of Secretary Cohen's rush to judgment on the need for more base closure rounds in the near term. The House version of the Defense authorization bill does not contain such authority. The other body adopted an amendment to its version of the Defense bill offered by Senator DORGAN that gets to the heart of the issue. The Senate bill asks for a comprehensive study and assessment of the true costs and actual savings, not estimates, of the four previous rounds of base closure which we will be implementing through 2001.

The actions of both bodies have been misinterpreted. I, along with many other Members, voted in 1990 to establish the Commission process that governed the last three rounds. The Congress has overwhelmingly supported those base closure decisions as I have, even though some of the recommendations cause great unease and I think that perhaps we will regret some of the decisions made from it, but overall I think the process was a good process.

We supported this because we thought it was best for the country. We have put aside our own parochial interests for the greater good. But now some have criticized Congress for not adopting blindly the Secretary's recommendation. Why have we not done so? Because those of us who have supported the base closure process believe now is not the time.

Why do we believe that to be the case? Some commentators have chosen to focus solely on the President's politization of the process. Clearly, the McClellan and Kelly depot issue will

not go away and is a major factor, but it is not the only one, nor is it the most important.

Let us review where we are now. Through four rounds of base closure that began a decade ago, we have slashed 21 percent of the U.S.-based plant replacement value of base structure. Ninety-seven major bases have been closed in the United States. We have cut our overseas basing structure by 43 percent, ceasing operations at over 960 facilities. The Army in Europe alone has closed the equivalent of 12 United States major maneuver bases.

Taken together, we have gotten rid of 27 percent of the base structure at a very high price, but it had to be done. By 2001, the taxpayer will have spent an estimated $23 billion to close just the U.S.-based infrastructure closing or realigning under the BRAC.

Will we save money? I do not doubt that measured over a 20-year period in terms of net present value that money will be saved. But there is a real question about how much. No one knows. Every savings figure is merely an estimate, and an incomplete one at that.

I want to cite three examples of where these problems are. In its budget estimates to accompany the fiscal year 1996 budget request, DOD estimated that revenues from the sale and disposal of land from the first three rounds of BRAC would amount to $815.3 million. This year DOD's estimate is $277 million, a 66-percent reduction in just 2 years.

DOD projects annual recurring savings after 2001 for all BRAC rounds of $5.6 billion annually. However, that figure does not take into account the expected ongoing environmental cleanup costs or the caretaker cost for property that cannot be disposed of at that point. Those costs are estimated conservatively, in my judgment, at $500 million a year.

Approximately 51 percent of the savings which DOD assumes will come from BRAC during the implementation are due to assumed savings in operation and maintenance costs. Much of those assumed savings are due to reductions in civilian personnel.

What I am saying, Mr. Speaker, is that now is not the time. We need to do this in a more reasoned and careful manner.

CIVILIAN-MILITARY RELATIONS IN GUAM IS BEING FRACTURED

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning hour debates for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, in Guam and many other American communities children are at the forefront of our Government policies, and like many communities, children are also at the forefront of our relationship with the military, whose large presence on Guam is well-known to many of the Members of this Chamber. Those in Guam and here in Washington must understand the dimensions of this history.

The military's recently announced intention to establish Department of Defense Dependent Schools on Guam will divide an island for which over the past few decades community leaders, elected leaders, and military leaders have worked hard to dismantle barriers that force the perception of two separate communities on Guam. The barriers were coming down until the military announced that they were returning the school system on Guam to the pre-World War II era.

The school system prior to the World War II was divided. Military dependents attended a school called the American School, while local Chamorro children attended local schools. The naval government's official policy on education at the time was ''to provide every possible means to ensure that the children of American residents in Guam shall not suffer perhaps permanent injury'' because of their residence on Guam. This was perceived as an indication that those native to Guam were not good enough.

After World War II, although the school system in name was integrated, in reality, the districting was manipulated by the Navy to maintain segregated schools. Although the naval government operated all of the schools on the island and was thus responsible for the quality of education on Guam, double standards were maintained. When the relationship was finally integrated in the 1960's, when I was in high school and completing my education, and just as the process took time to heal here on segregation in the United States, so did the feelings of segregation on Guam. It took years to build relationships between the civilian and military community on Guam, and now this is being destroyed.

What we have worked in Guam so hard to dismantle is easily built up by the military. The military has pursued this issue inexhaustibly. They call it Operation Bright Vision. Maybe in the shortsighted eyes of military planners on Guam, this is a bright vision. With the President's announced initiative of one America to bring together people of different races, setting up the dynamics to divide the community on Guam is clearly the wrong vision for all of America. Rather than bright vision, it is a dark cloud over Guam and the rest of the United States.

The military will attempt to characterize this issue as a failed contract. Yes, they did have a contract for monetary payment with the Government of Guam, but those were for administrative reports. The Government of Guam high schools are fully accredited; the teachers are certified and the system has graduated many outstanding doctors, lawyers, and educators who serve here as well as on Guam. This must be important to understand.

But the Department of Defense all along, while telling me that they may establish schools in the fall of 1998, have continued to pursue this and surprised the entire island by announcing that schools would be established this fall, in October of 1997.

They did all of this while failing to actively engage local leaders and education officials. They never talked to them. They let the contract become the mechanism of the discussion. The whole process is already symptomatic of a major breakdown between local military officials and the people of Guam.

Difficult times lie ahead, and this is exactly because of this move. This effort is hostile in nature. To my knowledge, this may be the first time that the Department of Defense has established domestic dependent schools contrary to the desires and warnings of local officials, local leaders, and the local community. This paves the road for very difficult times in the military-civilian relationship on Guam.

There is much more at stake here than the quality of education. This is a relationship issue. It is not just about schools; it is about military planning. It is more, even more than that. Our relationship is built upon people relating to other people, and the military will destroy this with their effort to divide our youth and to promote separate communities. Guam has to be seen as part of America by our fellow Americans.

This outrageous move by DOD is hostile in its nature, hostile towards the local community from whom it wishes to separate, hostile toward the schools, and hostile toward its outstanding professionals and toward a people who have heretofore welcomed the military to their homes, its families, and its lands.

Mr. Speaker, I include for the RECORD extraneous materials relating to this topic. These are letters by the current and former Speaker of the Guam Legislature. Speaker Unpingco characterize the island's sentiments well. Former Speaker San Agustin outlines the history of civilian-military relations on this issue.

OFFICE OF THE SPEAKER,
Agana, Guam, July 8, 1997.

Hon. ROBERT A. UNDERWOOD, M.C.,
House of Representatives,
Agana, Guam.

DEAR CONGRESSMAN UNDERWOOD: I am compelled to write to you regarding the recent decision by the Department of Defense to open DOD schools on Guam. Without any consideration of the social ramifications this would have, DOD has opted to segregate this community and pull over 2,700 military dependent school children out of the local public school system. What kind of message is the Department of Defense trying to send to the people of Guam?

Attached is a copy of my letter to Rear Admiral Martin E. Janczak, Commander, U.S. Naval Forces Marianas, wherein I state my concern over this decision on the part of DOD. To summarize the letter, the plan to open DOD schools on U.S. soil sends a strong message to the people of Guam that we are nothing more than second-class citizens in the eyes of the United States.

I must convey to you the sentiments of this community. The opening of DOD schools